

- SUBJECT:** Canceling a special election if legislative candidate is unopposed
- COMMITTEE:** Elections — favorable, without amendment
- VOTE:** 6 ayes — Danburg, J Jones, Denny, Hodge, Madden, Truitt
0 nays
3 absent — Gallego, Sadler, Wilson
- WITNESSES:** None
- BACKGROUND:** The Texas Constitution, Art. 3, sec. 13 provides for filling vacancies in the Legislature. When vacancies occur in either house, the governor, or the person exercising the power of the governor, calls an election to fill the vacancy.
- Election Code, chapter 2 allows political subdivisions other than counties (municipalities, school districts, and certain water districts) that require write-in candidates to formally declare their candidacy, to cancel a general election and declare the unopposed candidate the winner if there are no declared write-in candidates, no opposed candidates, and no propositions on the ballot. This provision does not extend to special elections to fill vacancies in the Legislature.
- DIGEST:** HJR 47 would amend the Texas Constitution, Art. 3, sec. 13 by authorizing the Legislature to provide by general law for canceling a special election for a vacancy in the Legislature if only one candidate qualifies.
- The proposed amendment would be submitted to Texas voters at the November 6, 2001 election. The ballot proposal would read: “The constitutional amendment authorizing the filling of a vacancy in the legislature without an election if a candidate is running unopposed in an election to fill the vacancy.”

SUPPORTERS
SAY:

HJR 47 and its enabling legislation, HB 831, would spare the state and counties the unnecessary expense and administrative duties of holding a special election to fill a vacancy in the Legislature when a candidate is unopposed. For example, Denton County spent more than \$12,000 for a special election in which only one candidate ran to replace the late Rep. Ronny Crownover. HJR 47 would allow unopposed candidates to take office without the expense and administrative inconvenience of unnecessary special elections, as now occurs in political subdivisions other than counties.

This proposed change would not discourage anyone from running for office, nor would it interfere with anyone's voting rights. If a candidate is unopposed, the race essentially is decided. Anyone who desires to become a candidate after the close of the filing period has ample time in which to declare a write-in candidacy, in which case the election would not be canceled. Under current law, if there is an unopposed candidate on the ballot, the election becomes an expensive formality.

Since the Texas Constitution sets forth the manner in which legislative candidates are elected to office and requires that senators and representatives be elected, any proposal to cancel a special election to fill a vacancy in the Legislature requires a constitutional amendment as well as an amendment to the Election Code.

OPPONENTS
SAY:

Canceling a special election and restricting write-in candidates would deprive voters of their right to vote for candidates of their choice. Canceling a special election also would deprive candidates of the opportunity to gain visibility by campaigning and would deprive the voters of knowing who their elected leaders are. Even if voter turnout is low because there is only one candidate on the ballot, those who took the time to vote are exercising their right to endorse the candidate they want to represent them.

NOTES:

HB 831 by Madden/Crownover, the enabling legislation for HJR 47, which would authorize the secretary of state to declare an unopposed candidate the winner in an election to fill a legislative vacancy if there were no opposed candidates, no propositions on the ballot, and no declared write-in candidates, passed the House on March 15.